# SIKKIM

# GOVERNMENT GAZETTE

**EXTRAORDINARY**
**PUBLISHED BY AUTHORITY**

**Gangtok** **Monday** **18th** **September, 2006** **No. 304**


**Government of Sikkim**
**Office of the Principal Chief Conservator of Forests-cum-Secretary**
**Forest, Environment and Wildlife Management Department,**
**Gangtok- 737 101, Sikkim.**

**NO:504/F** **Date: 14.9.2006**

**NOTIFICATION**

In exercise powers conferred by section 63 of the Biological Diversity Act, 2002, the State Government hereby makes the following rules, namely:-

**1. Short title, extent and commencement**

(1) These Rules may be called "Sikkim State Biological Diversity Rules, 2006".
(2) It extends to the whole of the Sikkim.
(3) These Rules come into force on such date as the State Government may by a notification in the Official Gazette appoints.

**2. Definitions**

In these Rules, unless the context otherwise requires, -

(a) "**Act**" means the Biological Diversity Act 2002;
(b) "**Authority**" means the National Biodiversity Authority established under Section 8 of the Act,
(c) "**Board**" means the Sikkim State Biodiversity Board established under Section 22 of the Act;
(d) "**Biodiversity Management Committees**" means the Committees established by the local bodies under Section 41 of the Act;
(e) "**Chairperson**" means the Chairperson of the State Biodiversity Board;
(f) "**fee**" means any fee stipulated in the schedule of these Rules;
(g) "**form**" means form set out in the schedule of these Rules;
(h) "**forest and wildlife legislations**" includes Indian Forest Act , 1927, Sikkim Forests, Water Courses, Road Reserve (Protection and Preservation) Act, 1988, Wildlife (Protection) Act, 1972, Environment (Protection) Act, 1986, Forest (Conservation) Act 1980, and all other Acts for which the Department of Forest, Environment and Wildlife Management is currently or in future the enforcing agency;
(i) "**forest and wildlife offence**" means offences as described in forest and wildlife legislations.
(j) "**habitat**", "**vehicle**", "**weapon**", "**wildlife**" shall have the meanings respectively assigned to them in the Wildlife (Protection) Act 1972;
(k) "**Member**" means member of the National Biodiversity Authority or a State Biodiversity Board, and includes the chairperson thereof;

(l) "**Member Secretary**" means the Member Secretary of the Board;
(m) "**schedule**" means the Schedule appended to these Rules;
(n) "**section**" means section of the Act;
(o) "**Trekking Service Providers**" includes the porters, pack animal operators, cooks, guides, their assistants and all other trekking support staff;
(p) "**year**" means the financial year commencing on the first day of April;
(q) Words and expressions used but not defined in these Rules and defined in the Act shall have the meaning respectively assigned to them in the Act.

**3. Manner of selection and appointment of the Chairperson**

(1) The Chairperson of the Board shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters related to equitable sharing of benefits, to be appointed by the State Government.

**4. Term of Office of the Chairperson**

(1) The Chairperson of the Board shall hold the office for a period of three years in one term and may be eligible for reappointment.
(2) The Chairperson may resign from his office by giving at least one month notice in writing to the State Government.
(3) Notwithstanding any other provision of the Rules, his continuance in the office shall be at the pleasure of the State Government.

**5. Pay and Allowances of Chairperson**

(1) The Chairperson of the Board shall be entitled to salary and other allowances while discharging the duties of the Board as may be fixed by the State Government.

**6. Nomination, Term and Allowance of non-official Member**

(1) Not more than five non-official members from amongst the experts in matters relating to conservation of wild biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources shall be nominated by the State Government. Not less then two of these shall be from local communities.
(2) The non-official Member of the Board shall hold the office for a term not exceeding three years at a time from the date of his nomination.
(3) The non-official Member shall be entitled to traveling expense, daily allowance and to such other allowances as may be fixed by the State Government for attending the meeting (s) of the Board.

**7. Filling up of vacancies of non-official member**

(1) A non-official member of the Board may resign his position at any time by giving in writing under his hand addressed to the Chairperson and the seat of that member in the Board shall become vacant.
(2) Such vacancy in the Board shall be filled up by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term of the member in whose place he was nominated.

**8. Removal of the Members of the Board**

(1) No member of the Board shall be removed from the office on the grounds enumerated in Section 11 of the Act, without a due and proper enquiry by an officer appointed by the Chairperson for the purpose and without giving an opportunity to the member concerned to explain his/her conduct.

**9. Appointment of the Ex -officio Members**

Not more than five ex-officio members shall be appointed to represent the departments of state Government. Four ex-officio members, who shall be the head of the department to represent the Forest, Environment and Wildlife Management Department, Horticulture and Cash Crops Development, Rural Management and Development Department and Tourism Department. One ex-officio member shall be the Addl. PCCF (environment) to represent environment sector and who shall also function as member secretary to the board.

**10. Head Office and Establishment of the Board**

The head Office of the Board shall be at Forest Secretariat, Gangtok, Sikkim. The State Government shall provide adequate manpower and establishment costs for the effective and smooth functioning of the Board. The Board will be an autonomous body and have full administrative and financial autonomy as provided for by the Act.

**11. Member Secretary of the Board**

(1) The Member Secretary shall be responsible for day-to-day administration of the Board, management of funds and implementation of various activities of the programme under the guidance of the Chairperson of the Board.

(2) All orders or Instructions to be issued by the Board shall be under the signature of the Member Secretary or of any other officer authorized in his/her behalf by the Chairperson.

(3) The Member Secretary or any other officer authorized in his/her behalf by the Chairperson for the purpose, may sanction and disburse all payments against the approved budget.

(4) The Member Secretary shall have powers to give administrative and technical sanctions to the estimates included in the approved and en-block sanctioned budget and work programme of the Board.

(5) The Member Secretary shall have powers to give grants to various individuals and organizations including Non Governmental Organizations, Biodiversity Management Committee, Joint Forest Management Committee (JFMC), Ecodevelopment Committee (EDC) and others as per the approved and en-block sanctioned budget and work programme of the Board. The Member Secretary shall also have the powers to frame the Terms of Reference for the same.

(6) The Member Secretary shall have powers to sign Memorandum of Understanding with various local, national and international organizations after the due approval of the Board.

(7) The Member Secretary shall be in charge of all the confidential papers of the Board and shall be responsible for their safe custody; he/she shall produce such papers whenever so directed by the Board.

(8) The Member Secretary shall write and maintain confidential reports of all the officers and staff of the Board.

(9) The Member Secretary shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Board.

**12. Meetings of the Board**

(1) The Board may meet at least two times a year normally after six months at the Head quarters of the Board.

(2) The Chairperson shall, upon a written request from not less than five members of the Board or upon a direction of the State Government, call a special meeting of the Board.

(3) Fifteen days notice of an ordinary meeting and three days notice of a special meeting specifying the purpose, the time and the place at which such meeting is to be held, shall be given to the members.

(4) Every meeting shall be presided over by the chairperson and in his absence, by a Board member authorized by him.

(5) The decision of the Board shall, if necessary, be taken by a simple majority of the members present and voting and the Chairperson or in his absence, the member presiding shall have a second or casting vote.

(6) Each member shall have one vote.

(7) Quorum for the meeting of the Board shall be five.

(8) No member shall be entitled to bring forward for the consideration of a meeting any matter of which he has not given fifteen days notice unless the chairperson in his discretion permits him to do so.

(9) Notice of the meeting may be given to the members by delivering the same by messenger or sending it by registered post to his last known place of residence or business or in such other manner as the Member Secretary of the Board may, in the circumstances of the case think fit.

(10) In addition, the Board may evolve such other procedure for the transaction of its business, as it may deem fit and proper.

**13. Appointment of Expert Committee by the Board and their Entitlements**

(1) The Board may constitute any number of committees for such purposes as it may deem fit consisting wholly of members or wholly of other persons or partly of members or partly of other persons.

(2) The members of the committee may include the local knowledgeable experts of the Biodiversity Management Committee in herbal medicine, agriculture, horticulture, animal husbandry, fishing, handicrafts, handloom, nomadic herding, non timber forest produce, culture, tradition and folklore, tourism, wildlife, value addition etc.

(3) The members of the committee other than the members of the Board shall be paid such fees and allowances for attending the meetings as the Board may deem fit.

(4) The Board may invite any person, whose assistance or advice it considers useful to obtain in performing any of its functions, to participate in the deliberations of any of its meetings. Such person associated with the Board shall be entitled to get allowances as prescribed by Board from time to time.

**14. General functions of the Board**

In particular and without prejudice to the generality of the other provisions, the Board may perform the following functions:

(1) Lay down the procedure and guidelines to govern the activities provided under section 23 of the Act.

(2) Advise the State Government on any matter concerning conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge.

(3) Provide livelihood support to those villagers who have shifted or are in the process of shifting from unsustainable livelihoods to sustainable livelihoods.

(4) Promote and strengthen individuals and institutions who are already working towards conservation, sustainable use, and equitable benefit-sharing of biological resources.

(5) Provide technical assistance and guidance to the departments of the State Government.

(6) Regulate by granting of approval or otherwise requests for commercial utilisation or bio-survey and bio-utilisation of any biological resource by Indian nationals. Provided that the provision of this rule shall not apply to the local people and communities of the area, including growers and cultivators of biodiversity, and *baidis, amjis and bongthings* who have been practicing indigenous medicine.

(7) Facilitate updating and implementation of State Biodiversity Strategy and Action Plan

(8) Commission studies and sponsor investigations and research

(9) Engage consultant, for a specific period, for providing technical assistance to the Board in the effective discharge of its functions.

(10) Collect, compile and publish technical and statistical data, manuals, codes or guides relating to conservation of biological diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge.

(11) Organise through mass media a comprehensive programme regarding conservation of biological diversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resource and knowledge.

(12) Plan and organise training of personnel engaged or likely to be engaged in programmes for the conservation of biological biodiversity and sustainable use of its components

(13) Prepare the annual Budget of the Board incorporating its own receipts as also the devaluation from the State and Central Government provided that the allocation by the Central Government shall be operated in accordance with the budget provisions approved by the Central Government.

(14) Board shall have full powers for approval and en-block sanction of the annual budget and work programme.

(15) Recommend creation of posts to State Government, for effective discharge of the functions by the Board and to create such posts, provided that no such post whether permanent, temporary or of any nature, would be created without prior approval of the State Government.

(16) Approve the method of recruitment or promotions to such posts.

(17) Take steps to build up database and to create information and documentation system for biological resources and associated traditional knowledge through biodiversity registers and electronics data bases, to ensure effective management, promotion and sustainable uses.

(18) Give advise and directions to the local bodies, Biodiversity Management Committees in writing and through appropriate oral means, for effective implementation of the Act, and to facilitate their meaningful participation in all measures relating to conservation, sustainable use, and equitable benefit-sharing.

(19) Report to the State Government about the functioning of the Board and implementation of the Act and the rules made therein.

(20) Recommend, prescribe, modify, collection fee of biological resources other than forest produce from time to time.

(21) To devise methods to ensure protection of rights including intellectual property rights over biological resources and associated knowledge including systems of maintaining confidentiality of such information as appropriate, including the protection of the information recorded in People's Biodiversity Registers.

(22) Sanction grants-in-aid and grants to Biodiversity Management Committees for specific purposes.

(23) Undertake physical inspection of any activity or work to check whether it is in accordance to the Act.

(24) Ensure that biodiversity and biodiversity-dependent livelihoods are integrated into all sectors of planning and management, and at all levels of planning from local to state, to enable such sectors and administrative levels to contribute effectively to conservation and sustainable use.

(25) Perform such other functions as may be necessary to carry out the provisions of the Act or as may be prescribed by the State Government from time to time.

(26) Shall have power to acquire, hold and dispose of property, both movable and immovable and enter into contract for the same.

(27) Award individually or as a group, or both for innovation and contribution in the biodiversity sector of the state.

(28) Formulate indicators to evaluate the performance of the Biodiversity Management Committee's, and annually reward the best performing Biodiversity Management Committee at each level in the state.

(29) Based on this evaluation, poorly performing Biodiversity Management Committee's may be dissolved by the Board on the recommendation of the concerned local body and new Biodiversity Management Committee's reconstituted in their place.

**15. Powers and Duties of the Chairperson**

(1) The chairperson shall ensure that the affairs of the Board are run efficiently and in accordance with the provisions of the Act and the rules made therein

(2) The Chairperson shall have the powers of general superintendence over the officers and staff of the Board and Chairperson may issue necessary directions for the conduct and management of affairs of the Board.

(3) The Chairperson shall convene and preside over all the meetings of the Board and shall ensure that all decisions taken by the Board are implemented in a proper manner.

(4) The Chairperson shall exercise such other powers and perform such other functions as may be delegated to him from time to time by the Board.

(5) The Chairperson shall exercise all the administrative and financial powers of the Board, subject to ratification by the Board in subsequent meetings.

**16. Terms and Conditions of Service of employees of the Board**

(1) The terms and conditions of the employees of the Board shall be the same as those of corresponding scale of pay under the State Government, the appointments in general shall be on contractual basis or on deputation, unless otherwise decided by the State Government.

**17. Procedure for access to or collection of biological resources (Section 24 of the Act)**

(1) Any person seeking access to or collection of biological resources and associated knowledge for research or for commercial utilization shall make an application to the Board in Form I as given in

schedule. Every application shall be accompanied by a fee of Rs. 100/- in case such access is for research purpose and Rs 1000/- for commercial utilization, and shall be in the form of a cheque or demand draft.

(2) The Board after due appraisal of the application and after consultation with the concerned local bodies and after collecting such additional information, as it may deem necessary shall decide the application, as far as possible within a period of 3 months of receipt of the same. In this context, the word "consult", for the purposes of the act, includes the following steps, inter alia: (a) issuing of public notice, in local languages, of the proposal for access or collection; (b) discussion with the general assembly of the local body; and (c) formal consent from the assembly after being provided adequate information about the proposal and its implications for conservation and livelihoods.

(3) On being satisfied with the merit of the application, the Board may allow the application or restrict any such activity if it is of the opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity.

(4) A written agreement duly signed by an authorized officer of the Board and the applicant shall govern the access/collection and benefit sharing. The form of the agreement shall be decided by the Board.

(5) The conditions for approval may specifically provide measures for conservation and protection of biological resources to which the approval being granted.

(6) The Board may reject the application if it considers that the request cannot be acceded to after recording the reasons therefore. Before passing an order of rejection, the applicant shall be given a reasonable opportunity of being heard. No order shall be made without an opportunity of being heard to the person being affected.

(7) Any information given in the form referred to in sub rule of (1) shall be kept confidential and shall not be disclosed, either intentionally or unintentionally, to any person not concerned thereto.

**18. Revocation of access/approval**

(1) The Board may either on the basis of any complaint or *suo moto* withdraw the approval granted by it for access and revoke the written agreement under the following conditions:

(i) On the basis of reasonable belief that the person accessing the said bio-resource has violated any of the provisions of the Act or the condition on which application was allowed;

(ii) When the person has failed to comply with the terms of agreement;

(iii) On failure to comply with any of the conditions of access;

(iv) On account of overriding public interest or for protection of environment and conservation of biological diversity, and protection of the rights, livelihoods, and knowledge of local communities;

(2) The revocation order shall be made only after making such inquires as required and giving the person so affected an opportunity of being heard.

(3) The Board shall send a copy of such revocation order to the Biodiversity Management Committees for prohibiting the access and also to assess the damage, if any, caused and take steps to recover the damage.

**19. Restriction on activities related to access to biological resources**

(1) The Board, if it deems necessary and appropriate, shall take the steps to restrict or prohibit the proposal for access to biological resources for the following reasons:

(i) The request for access is for any threatened species, or species that is likely to become threatened due to such access

(ii) The request for access is for any endemic and rare species

(iii) The request for access may likely to result in adverse effect on the livelihoods, culture, or indigenous knowledge of the local people

(iv) The request to access may result in adverse environmental impact which may be difficult to control and mitigate.

(v) The request for access may cause genetic erosion or affecting the ecosystem function

(vi) Use of resources for purposes contrary to national interest and other related international agreements entered into by the country.

(2) Any order of restriction shall be made only after making such inquires as required, consulting the concerned local bodies and Biodiversity Management Committees, and giving the person so effected an opportunity of being heard.

**20. Operation of State Biodiversity Fund (Section 31 & 32 of the Act)**

(1) The Board shall have bank accounts in a nationalized bank, which shall be operated by the Member Secretary of the Board or by such other officer of the Board as may be authorized by it in this regard.

(2) The State Biodiversity Fund will have two separate heads of accounts, one relating to the receipts (grants and loans) from the Central Government/ National Biodiversity Authority and State Government, including receipts from such other sources as decided by the Board and other concerning the fee, license fee, royalty, other receipts of the Board.

(3) The State Government, after due appropriation made by the State legislature by the law in this behalf, pay to the Board such sum of money as the State Government may think fit for being utilized for the purpose of the Act.

(4) The Board shall have powers to receive the funds from national and international donor agencies duly complying with the provisions of Foreign Contribution (Regulation) Act 1976. The Member Secretary shall have the power to prepare and submit such proposals and also execute such projects after approval of the Board.

(5) The Board will frame guidelines on ways to ensure that decisions regarding the management and use of the Fund are transparent and accountable to the public.

**21. Annual Report and Annual Statement of Accounts (Sections 33 & 34 of the Act)**

(1) The Board shall prepare its annual report for each financial year giving detailed account of it activities and annual statement of accounts and submit the same to the State Government.

(2) The Board shall lay down the procedure for upkeep of the accounts. The accounts of the Board shall be audited annually by the Charted Accountant appointed for the purpose by the Board. Accountant General of the State may as well audit the accounts and the expenditure towards this shall be payable by the Board.

(3) The Board shall submit the Annual Report together with the audited statement of accounts for each financial year to the State Government by September each year so as to enable the State Government to lay the reports before the Assembly.

**22. Establishment and Management of Biodiversity Heritage Site (Section 37 of the Act)**

(1) In consultation with the local bodies and other key stakeholders, the Board shall take necessary steps to facilitate setting up of areas of significant biodiversity values as heritage sites. Following recommendation from the Board and after consultation with the Central Government., the State Government. shall issue notification to this effect.

(2) The Board will frame guidelines on the selection, management, and other aspects of Heritage Sites, ensuring that these provide decision-making role to relevant Biodiversity Management Committees.

**23. Constitution of Biodiversity Management Committees (Section 41 of the Act)**

(1) Every local body shall constitute a Biodiversity Management Committee (Biodiversity Management Committee) within its area of jurisdiction. Accordingly, Biodiversity Management Committees are to be constituted at Gram Panchayat Ward, Zilla Panchayat and at Municipality and Municipal Corporation level.

(2) The Biodiversity Management Committees constituted shall have persons nominated by the local body, of whom not less than one third and preferably one half should be women. Six local knowledgeable persons being so nominated should be drawn from amongst the herbalists, agriculturist, Non Timber Forest Produce collectors, wildlife resource persons, fisherfolk, representatives of user associations, community workers, and academicians and any person/ representative of organization whom the local body trusts that he/she can significantly contribute to the mandate of the Biodiversity Management Committee. All the above should be residents within the said local body limits and be in the voters list.

(3) The chairperson of the concerned local body shall be the ex officio members of the Biodiversity Management Committees and function as the chairperson of the Biodiversity Management Committees.

(4) The nominated members of the Biodiversity Management Committee shall have tenure of three years.

(5) In matters related to wild biological diversity and/or biological diversity found in forest land it shall be mandatory for the Biodiversity Management Committee to seek the assistance of the concerned Joint Forest Management Committee (JFMC) and/or Ecodevelopment Committee (EDC).

(6) The local body shall nominate six special invitees from any of the departments such as forests, agriculture, horticulture, animal husbandry, rural development, education etc.

(7) The concerned area MLA would be special invitees to the meetings of the Biodiversity Management Committees at different levels.

(8) A technical support group comprising of experts in the field of biodiversity drawn from government agencies, NGOs, academia, community and individuals will be established by Zila Panchayat. The expert groups shall lend support to Biodiversity Management Committees.

(9) The key mandate of the Biodiversity Management Committees will be to ensure conservation, sustainable utilization and equitable sharing of benefits from the biodiversity. The Biodiversity Management Committees shall facilitate preparation of People's Biodiversity Registers. The Register shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them. The Zilla Biodiversity Management Committee shall be responsible for developing a district wide network of People's Biodiversity Register database. The People's Biodiversity Register shall be prepared at the Gram Sabha/ Panchayat/ Municipalities/Corporation Biodiversity Management Committee level by using the process and the format set by the Board. The Biodiversity Management Committees and local bodies will be responsible for ensuring the protection of the knowledge documented in the PBRs, especially to regulate its access to outside agencies and individuals.

(10) The concerned local body shall provide the members of the Biodiversity Management Committee with Photo Identification Cards.

(11) Notwithstanding anything contained in any other law, for the time being in force, if the Board or any officer authorized by it or the Biodiversity Management Committee has reasonable grounds for believing that an offence or contravention under the Act has been committed:

(i) Require any such person to produce for inspection biological resources in his control, custody or possession, or any license, permit or any other document granted to him or required to be kept by him under the provisions of the Act;

(ii) Stop any vehicle or vessel in order to conduct search or inquiry or enter upon and search any premises, land, vehicle, or vessel in the occupation of such person, and open and search any baggage or other things in his possession including various analog or digital data storage devices like computers, cameras, video cameras, digital cameras and their accessories;

(iii) Stop and detain any person, whom he sees doing any act for which a license or permit is required under the provisions of the Act. If such person fails to produce the license or permit, then inform the Zilla Biodiversity Management Committee and the member secretary of the Board and hand over the case to the forest officer having jurisdiction over the biological resource concerned in respect of which the offence has been committed.

(iv) Seize any scheduled biological resource or derivative thereof in respect of which an offence against the Act appears to have been committed together with any tool, vehicle, vessel, or weapon used for committing any such offence and inform the Zilla Biodiversity Management Committee and the member secretary of the Board and hand over the case to the forest officer having jurisdiction over the biological resource concerned in respect of which the offence has been committed.

(v) The forest officer may give the seized biological resource for safe custody on the execution by any person of a bond for the production of the same if and when so required, before the court of law to try the offence on account of which the seizure has been made.

(vi) Any person detained, or things seized under the foregoing power, shall forthwith be taken before the court of law to be dealt with according to law.

(vii) Any person who, without reasonable cause fails to produce anything, which is required to produce under this section, shall be guilty of an offence under the Act.

(12) No suit, prosecution or other legal proceedings shall lie against the members of the Biodiversity Management Committee or the forest officer for anything which is in good faith done or intended to be done under the Act or the rules or regulations made thereunder.

(13) The other functions of the Biodiversity Management Committees are to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval, to maintain data about the traditional health practitioners and other users of biological resources or as may be prescribed by the state government.

(14) The Zilla Panchayat Biodiversity Management Committee will serve as a supervisory agency for the overall functioning of Biodiversity Management Committees in the district.

(15) The Zilla Biodiversity Management Committees shall strive to mainstream biodiversity conservation concerns in the developmental planning at the local level.

(16) The Board shall provide guidance and technical support to the Biodiversity Management Committees for preparing People's Biodiversity Registers, and shall ensure that all information recorded in such Registers receives legal protection against misuse and appropriation by outside agencies and individuals.

(17) The Committee shall also maintain a Register giving information about the details of the access to biological resources and traditional knowledge granted, details of the collection fee imposed and details of the benefits derived and the mode of their sharing.

(18) The Biodiversity Management Committee at Panchayat, Zilla Panchayat, Municipality, Municipal Corporation level may decide on the terms under which they would permit access to biodiversity resources and associated knowledge to different parties for various purposes from within their jurisdiction and levy charges by way of collection fees from any person for accessing or collecting any biological resource for commercial purpose from area falling with in its jurisdiction. The major share of levy charged for the material collected / cultivated from private land should be given to the owner / cultivator of the land/ knowledge holder/s and the balance should be deposited in Local Biodiversity Fund of Biodiversity Management Committee. The levy charged for the material collected / cultivated from government land should be totally deposited in Local Biodiversity Fund of Biodiversity Management Committee.

(19) The Board shall provide guidelines for terms of access and fee collection by the Biodiversity Management Committees.

(20) The Gram Panchayat/ Zilla Panchayat / Municipality / Corporation Biodiversity Management Committee will prepare a Biodiversity Management Plan using output from People' s Biodiversity Register and will be responsible for, or participate in, its implementation.

(21) The local bodies shall ensure that the Biodiversity Management Committees are integrated with the functioning of existing local institutions, by cross-membership, regular coordination meetings, and other such measures as determined by the local bodies or as specified by the Board.

(22) In trekking destinations, the Biodiversity Management Committee shall in consultation with the concerned Joint Forest Management Committee / Ecodevelopment Committee pass a resolution indicating the "ecotourism code" to be observed in their trekking destination. The code should include the mechanism to ensure that the tourism remains environment friendly, prevent biopiracy, be culturally acceptable, and result in equitable sharing of the benefits. This code should ensure that the villagers get a fair and equal employment opportunity and that the trekkers and travel agents get timely and quality service.

(23) To promptly inform the Zilla Biodiversity Management Committee and the Board whenever this ecotourism code is violated.

(24) A copy of the ecotourism code duly recommended by the Biodiversity Management Committee and the concerned Joint Forest Management Committee / Ecodevelopment Committee shall be forwarded to the concerned Zilla Biodiversity Management Committee for their approval. The Biodiversity Management Committee shall also be authorized to amend the ecotourism code in consultation with the concerned Joint Forest Management Committee / Ecodevelopment Committee

and forward the same to the Zilla Biodiversity Management Committee for approval. The Zilla Biodiversity Management Committee shall keep the Board informed of the ecotourism code and its amendments. The Board shall provide a copy of these to the Tourism Department and associations of tour and travel agents in the state.

**24. Local Biodiversity Fund (Section 42-46 of the Act)**

(1) At the level of local body, the local biodiversity fund shall be constituted.

(2) The Board shall provide to the local body any loan or grant received by it from State Government, Central Government or from the Authority for the purpose of the Act. The local body can also access such funds from other sources as it identifies, or as specified by the Board.

(3) The local biodiversity fund shall be operated by the Biodiversity Management Committees. The Board shall lay down the operational guidelines for operation of the fund by the Biodiversity Management Committees, including ways in which it's functioning is transparent and accountable to all members of the relevant local body.

(4) The Biodiversity Management Committee shall maintain one bank account, for the local biodiversity fund in any nationalized bank or the State Bank of Sikkim. The Chairperson and the Vice Chairperson of the Committee shall jointly operate this account. The withdrawal of funds shall be made only after obtaining the written approval from all the members of the Biodiversity Management Committee.

(5) At the time of implementation of any work by the Biodiversity Management Committee, before actual commencement of works, a display board shall be installed at a prominent public place within the village like Panchayat Ghar, School, Public Health Center etc. enumerating the following namely:

- (i) Year of establishment of the Biodiversity Management Committee,
- (ii) Name of the work or initiative,
- (iii) Duration of work,
- (iv) Annual Physical and Financial target,
- (v) List of beneficiaries,
- (vi) Item of works to be undertaken along with their location and cost estimate.

(6) The fund shall be used for the conservation and promotion of biodiversity in the areas falling with in the jurisdiction of the concerned local body and for the benefit of the local community in so far such use is consistent with conservation of biodiversity.

(7) Specifically the fund shall be used to provide livelihood support to those villagers who have shifted out or are in the process of shifting from unsustainable livelihoods to sustainable ones.

(8) The account of the local biodiversity fund shall be prepared, in such forms as specified by the Board and during each financial year at such time as may be prescribed.

(9) Wherever an offence or contravention under the Act has been detected with the assistance of the Biodiversity Management Committee the Board shall credit 50% of the amount of fine in the Local Biodiversity Fund of the concerned Biodiversity Management Committee.

(10) The Biodiversity Management Committee shall prepare its annual report, giving full account of its activities during the previous financial year, and submit a copy thereof to the Board and a copy to the general assembly of the local body.

(11) The accounts of the local biodiversity fund shall be maintained and audited in such manner as may be specified by the Board.

**T. R. Poudyal, IFS**
**PCCF-Cum- Secretary,**
**Forest, Environment and Wildlife Management Department,**
**Government of Sikkim**
**File No: 268/884/FEWMD/2006**

**FORM I**

**(See rule - 17)**

**Application form for seeking prior approval to access Biological resources *for commercial utilization* and associated traditional knowledge**

**Part A**

1. Full particulars of the applicant
   (i) Name:
   (ii) Permanent address:
   (iii) Address of the contact person / agent, if any, in India:
   (iv) Profile of the organization (personal profile in case the applicant is an individual). Please attach relevant documents of authentication):
   (v) Nature of business:
   (vi) Turnover of the organization in Indian Rupee

2. Details and specific information about nature of access sought and biological material and/or associated knowledge to be accessed:
   (i) Identification (scientific name) of biological resources and its traditional use:
   (ii) Geographical location (including where applicable, village, sub division, and district) of proposed collection:
   (iii) Description / nature of traditional knowledge and its existing manifestations and uses (oral / documented):
   (iv) Any identified individual / family / community holding the traditional knowledge:
   (v) Quantity of biological resources to be collected (give the schedule):
   (vi) Time span in which the biological resources is proposed to be collected:
   (vii) Name and number of person authorized by the company for making the collection.
   (viii) The purpose for which the access is requested including the type and extent of research, commercial use being derived and expected to be derived from it:
   (ix) Whether any collection or use of the resource endangers any component of biological diversity and the risks, which may arise from the access.

3. Estimation of benefits that would flow to communities arising out of the use of accessed bioresources and traditional knowledge
4. Proposed mechanism and arrangements for benefit sharing.
5. Any other information

**Part B**
**Declaration**

I/ we declare that:

- Collection and use of proposed biological resources shall not adversely affect the sustainability of the resources;
- Collection and use of proposed biological resources shall not entail any environmental impact;
- Collection and use of proposed biological resources shall not pose any risk to biodiversity, including ecosystems, species, and genetic diversity;
- Collection and use of proposed biological resources shall not adversely affect the local communities;

I/we undertake to pay any fee and/ or royalty as may be levied by the Board or Biodiversity Management Committees. I/we further undertake to furnish any irrevocable bank guarantee as may be prescribed by the Board.

I/we further declare the Information provided in the application form is true and correct and I / We shall be responsible for any incorrect / wrong information.

Signed
Name
Title

Place
Date

*Printed at Sikkim Government Press, Gangtok.*